



NEW YORK  
REGIONAL OFFICE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
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March 6, 2024

**By ECF**

Honorable Robert M. Levy  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

RE: *SEC v. SafeMoon, LLC, et al.*,  
No. 1:23-cv-8138 (RML)

Dear Judge Levy:

Plaintiff Securities and Exchange Commission ("SEC") respectfully writes to set forth its position on the motion by the United States Attorney for the Eastern District of New York ("United States") to stay this case pending the resolution of parallel criminal proceedings against certain Defendants in this case. (ECF 15.) As noted by the United States, the SEC takes no position with respect to the motion. (ECF 15 at 1.) However, the SEC respectfully requests that the Court permit it to continue to attempt to serve Defendant Kyle Nagy ("Nagy") during the pendency of any stay. The United States has indicated that it does not object to this condition.

The SEC has not yet been able to serve Nagy and believes that he is located outside the United States. Federal Rule of Civil Procedure 4(m)'s 90-day limit to serve a defendant within the United States therefore does not apply here.

At least one United States Court of Appeals has held that a court does not have personal jurisdiction over a defendant who has not been served, that a stay order therefore does not apply to an unserved defendant, and that the plaintiff's obligation to serve the defendant continues to run during a stay. *Friedman v. Estate of Presser*, 929 F.2d 1151, 1157 (6th Cir. 1991). The SEC thus respectfully requests that, if the Court stays this action, it permit the SEC to continue to try to serve Nagy.

Respectfully submitted,

/s/ Oren Gleich

Oren Gleich  
Trial Counsel

cc: All counsel of record (via ECF)